

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

**NEW CENTURY HEALTH QUALITY)
ALLIANCE, INC., et al.,)**

Plaintiffs.)

v.)

Case No. 05-0313-CV-W-GAF

HUMANA HEALTH PLAN, INC., et al.,)

Defendants.)

ORDER

Presently before the Court are various Motions filed by both parties. After careful consideration of the facts and arguments presented by the parties, the Court HEREBY ORDERS relief as follows:

On April 14, 2005, the Defendants filed a Motion to Dismiss Case or Alternatively, to Compel Arbitration. (Doc. #4). The Plaintiffs then filed Suggestions in Opposition to this Motion. (Doc. #6). The Defendants replied. (Doc. #7). On August 26, 2005, the Plaintiffs filed a Motion to Withdraw their Opposition to this Motion. (Doc. #26). The Plaintiffs' Motion to Withdraw their Opposition was unopposed by the Defendants. Accordingly, the Plaintiffs' Motion to Withdraw Document Suggestions in Opposition to Defendants' Motion to Dismiss or Alternatively, to Compel Arbitration (Doc. #26) is GRANTED.

With the Plaintiffs' Opposition withdrawn, the Defendants' Motion to Dismiss Case or Alternatively, to Compel Arbitration (Doc. #4) is now unopposed. Accordingly, after considering the facts and arguments presented by the Defendants, the Defendants' Motion to Compel Arbitration (Doc. #4)

is GRANTED. The parties are HEREBY ORDERED to arbitrate the claims asserted by the Plaintiffs in their petition. The Plaintiffs are FURTHER ORDERED to commence arbitration within thirty (30) days of the date of this Order. In the interest of efficiency and judicial economy, the parties are HEREBY ORDERED to file a status report with the Court every ninety (90) days while this case is pending in arbitration.

On May 17, 2005, the Defendants asserted a Counterclaim against the Plaintiffs. (Doc. #8). The Defendants/Counter-claimants proceeded to file a Motion for a Preliminary Injunction and Request for Expedited Hearing. (Doc. #9). The Plaintiffs responded by filing a Motion for Order Dismissing Defendants' Motion for Preliminary Injunction and Motion to Dismiss and Compel Arbitration of Defendants' Counterclaims, Or, Alternatively, To Stay Any Remaining Counterclaims. (Doc. #18). In response, the Defendants/Counter-claimants filed a Motion to Voluntarily Dismiss All Counterclaims Without Prejudice and Response to Plaintiffs' Motion to Compel Arbitration of Defendants Counterclaims. (Doc. #30). In an Order dated October 24,, 2005, the Court granted the Defendants/Counter-claimants' Motion to Voluntarily Dismiss All Counterclaims Without Prejudice. (Doc. # 33).

As all of the Defendants/Counter-claimants' Counterclaims have been dismissed without prejudice to future actions, the Defendants/Counter-claimants' Motion for a Preliminary Injunction and Request for Expedited Hearing (Doc. #9) is MOOT. Furthermore, the Plaintiffs' Motion for Order Dismissing Defendants' Motion for Preliminary Injunction and Motion to Dismiss and Compel Arbitration of Defendants' Counterclaims, Or, Alternatively, To Stay Any Remaining Counterclaims (Doc. #18) is also MOOT.

IT IS SO ORDERED.

/s/ Gary A. Fenner
GARY A. FENNER, JUDGE
United States District Court

DATED: October 24, 2005